

# HOUSE BILL REPORT

## HB 1089

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### As Passed House:

February 20, 2009

**Title:** An act relating to harmonizing excise tax statutes with the streamlined sales and use tax agreement.

**Brief Description:** Harmonizing excise tax statutes with the streamlined sales and use tax agreement.

**Sponsors:** Representatives Hunter and Condotta; by request of Department of Revenue.

### Brief History:

#### Committee Activity:

Finance: 1/13/09, 2/3/09 [DP].

#### Floor Activity

Passed House: 2/20/09, 94-0.

### Brief Summary of Bill

- Allows origin-based sourcing for printers engaged in direct mailing activities.
- Imposes a penalty on persons misusing the uniform exemption certificate under the streamlined agreement.
- Specifies that a local option parking tax is not subject to the uniform rate requirement under the streamlined agreement.
- Specifies that ancillary telecommunication services are sourced to a customer's residential or business street address

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** Do pass. Signed by 9 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Orcutt, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Condotta, Conway, Ericks, Santos and Springer.

**Staff:** Jeffrey Mitchell (786-7139)

### Background:

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

In 2007 Washington enacted legislation to conform with the national streamlined sales and use tax agreement (SSUTA). The legislation took effect on July 1, 2008. The SSUTA is a voluntary multi-state effort to simplify and modernize sales and use tax administration for member states in order to substantially reduce the burden of tax compliance. Currently, 22 states are members of the agreement. The agreement focuses on improving sales and use tax administration systems for all sellers and for all types of commerce through all of the following: state level administration of sales and use tax collections, uniformity in the state and local tax bases, uniformity of major tax base definitions, central electronic registration system for all member states, simplification of state and local tax rates, uniform sourcing rules for all taxable transactions, simplified administration of exemptions, simplified tax returns, simplification of tax remittances, and protection of consumer privacy.

One of the biggest changes for Washington regarding SSUTA implementation was the change to destination sourcing. Sourcing refers to the determination of where a sale occurs for the purposes of assigning state and local sales and use taxes. Prior to July 1, 2008, the date when Washington's SSUTA's conforming legislation took effect, sales were sourced based on the location from which merchandise was shipped. Beginning on July 1, 2008, retailers delivering goods in Washington began collecting sales tax based on where the customer receives the merchandise.

Direct-mail businesses are businesses that print, label, bind, fold, enclose, and mail advertising material, publications, form letters, and other mail pieces as directed by the customer. Under current law, if a retailer contracted with a direct-mail business for the printing and mailing of catalogs, advertising, or other mail to a large number of individuals, the direct-mail business would have to determine the taxing jurisdiction for every person on the mailing list, unless the retailer paid tax directly or claimed an exemption. On September 5, 2008, the governing board of the streamlined agreement modified the agreement to allow direct-mail businesses to source sales tax to the location from which the mail was shipped if the shipping location and delivery location are within the same state. Washington law still conforms to the pre-September 5, 2008 sourcing requirements for direct mail.

Under the SSUTA, ancillary services, which are services provided along with a telephone related service and include services such as voice mail or caller identification are sourced to the customer's place of primary use, which is the residential or business street address of the customer. However, Washington law does not currently provide an identical sourcing requirement for ancillary services.

Goods and services purchased for resale are exempt from tax because the sales tax only applies (usually) to purchases made by final consumers. The Department of Revenue has specified the information contained in a traditional resale certificate used by buyers when purchasing goods and services that will be resold. However, the SSUTA requires the use of a special, uniform certificate for claiming a resale exemption electronically that is in a form provided by the governing board of the streamlined agreement. The misuse of a traditional resale certificate subjects a taxpayer to an additional 50 percent penalty; however, this penalty does not apply to the misuse of a similar uniform certificate for resale exemptions.

The SSUTA requires one jurisdiction-wide tax rate for state and local sales and use taxes. However, many charges that resemble sales and use taxes were not intended to be covered

under the SSUTA. Examples of these charges include car rental taxes, the use tax on natural or manufactured gas, admission fees, and room and hotel taxes. State law authorizes counties and cities to impose a tax on commercial parking businesses. Cities and counties may structure the tax so that it is based upon the amount paid for renting or leasing of the space. Cities and counties may also use differing tax rates depending upon the zoning or location of the facility.

**Summary of Bill:**

A seller of direct mail is allowed to source sales for sales tax purposes to the location from which delivery is made if the shipping and delivery locations are located within the state. For sales of direct mail to locations outside of the state, the seller is still required to source sales tax based upon the out-of-state delivery locations.

All telecommunication ancillary services are sourced to the business or residential street address of the customer.

The 50 percent penalty for the misuse of traditional resale certificates is applied to the uniform exemption certificate under the SSUTA with respect to people unlawfully claiming a resale exemption on the uniform certificate.

The commercial parking tax for cities and counties is exempted from the uniform tax rate requirement.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Washington excise taxes should be harmonized with the national streamlined sales and use tax agreement (SSUTA). The destination sourcing used in the SSUTA has caused problems for direct-mail and printing companies, because they have to recoup the tax from a variety of tax jurisdictions. The Streamlined Sales Tax Governing Board has adopted the recommendation that printing companies be taxed using origin-based sourcing. It will simplify taxation on printing and direct mail businesses by allowing for origin-based sourcing verses destination sourcing. This bill reaffirms the Department of Revenue's interpretation on streamlined conformity for taxes on telecommunication ancillary services. It is important that we have uniform tax codes and treatment across state borders, and for Washington to be prepared to meet the national streamlined sales tax goals.

(Opposed) None.

**Persons Testifying:** Representative Hunter, prime sponsor; Drew Shirk, Department of Revenue; Bill Stauffacher, Pacific Printing and Imaging Association; and Amber Carter, Association of Washington Businesses.

**Persons Signed In To Testify But Not Testifying:** None.